

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RALPH COBB,

Plaintiff,

vs.

MARY K. BERGHUIS, *et al.*,

Defendants.

Case No. 1:06-CV-773

Hon. Robert J. Jonker

ORDER

Plaintiff, a *pro se* indigent prisoner incarcerated by the Michigan Department of Corrections (MDOC), filed a civil rights action against defendants pursuant to 42 U.S.C. § 1983. On December 6, 2006, the court ordered the clerk to arrange for the service of the summons and complaint on the defendants. The record reflects that the United States Marshals Service undertook service of process on the named defendants. In a letter dated January 16, 2007, the MDOC advised the Marshals Service that it could not accept service for defendant Farley because he was no longer employed by the MDOC. This matter is now before the court on plaintiff's "letter motion" for a court order to locate defendant J. Farley for service (docket no. 17).

Defendants moved for summary judgment after plaintiff filed this motion. On August 20, 2007, the undersigned issued a report and recommendation ("R & R"), which recommends that defendants' motion be granted and that plaintiff's complaint be dismissed in its entirety for failure to exhaust the available administrative remedies. Under these circumstances, it would be an inefficient use of both the court's and the Marshal's resources to locate and serve defendant Farley until the dispositive motion is resolved. Accordingly, plaintiff's motion is **DENIED** without

prejudice. Plaintiff may re-submit the motion if his claims survive the pending motion for summary judgment.

IT IS SO ORDERED.

Dated: September 7, 2007

/s/ Hugh W. Brenneman, Jr.
HUGH W. BRENNEMAN, JR.
United States Magistrate Judge